

# **EXHIBIT A**

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**From:** David Seidel  
**Sent:** Monday, October 3, 2022 1:35 PM  
**To:** Mulqueen, Matt; Riccio, Nicole  
**Cc:** Joseph Saveri; Eric L. Cramer  
**Subject:** RE: Varsity // ECF 357

Thanks for that clarification, Matt. That is what we intended.

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**From:** Mulqueen, Matt <mmulqueen@bakerdonelson.com>  
**Sent:** Monday, October 3, 2022 1:32 PM  
**To:** David Seidel <dseidel@saverilawfirm.com>; Riccio, Nicole <NRiccio@bakerdonelson.com>  
**Cc:** Joseph Saveri <jsaveri@saverilawfirm.com>; Eric L. Cramer <ecramer@bm.net>  
**Subject:** RE: Varsity // ECF 357

External (mmulqueen@bakerdonelson.com)

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David – one correct I just noted – as stated in my earlier email we believe point 2 should include both defendants’ and plaintiffs’ expert depositions, since information about defendants’ experts’ opinions may be discussed at both. See below in green and confirm if you are in agreement.

**Matthew S. Mulqueen**

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Baker, Donelson, Bearman, Caldwell & Berkowitz, PC represents clients across the U.S. and abroad from offices in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Texas, Virginia, and Washington, D.C.

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**From:** Mulqueen, Matt  
**Sent:** Monday, October 3, 2022 3:12 PM  
**To:** David Seidel <[dseidel@saverilawfirm.com](mailto:dseidel@saverilawfirm.com)>; Riccio, Nicole <[NRiccio@bakerdonelson.com](mailto:NRiccio@bakerdonelson.com)>  
**Cc:** Joseph Saveri <[jsaveri@saverilawfirm.com](mailto:jsaveri@saverilawfirm.com)>; Eric L. Cramer <[ecramer@bm.net](mailto:ecramer@bm.net)>  
**Subject:** RE: Varsity // ECF 357

David,

Defendants are in agreement with the revised proposal below and you can note that in your response. Thank you for working with us on this.

Matt

**Matthew S. Mulqueen**

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**From:** David Seidel <[dseidel@saverilawfirm.com](mailto:dseidel@saverilawfirm.com)>  
**Sent:** Monday, October 3, 2022 12:30 PM  
**To:** Mulqueen, Matt <[mmulqueen@bakerdonelson.com](mailto:mmulqueen@bakerdonelson.com)>; Riccio, Nicole <[NRiccio@bakerdonelson.com](mailto:NRiccio@bakerdonelson.com)>  
**Cc:** Joseph Saveri <[jsaveri@saverilawfirm.com](mailto:jsaveri@saverilawfirm.com)>; Eric L. Cramer <[ecramer@bm.net](mailto:ecramer@bm.net)>  
**Subject:** RE: Varsity // ECF 357

Hi Matt,

Those clarifications are fine. Clarifications updated below in red.

1. The *Jones* and *Fusion* plaintiffs will not share expert reports with the *American Spirit* plaintiffs or their experts until the *American Spirit* plaintiffs have received Defendants' expert reports.
2. The *Jones* and *Fusion* plaintiffs may not ask any questions or attend the defendants' or plaintiffs' expert depositions in the *American Spirit* case, and the *American Spirit* plaintiffs may not ask any questions or attend the defendants' or plaintiffs' expert depositions in the *Jones* and *Fusion* cases.
3. The *Jones* and *Fusion* plaintiffs will not disclose the Defendants' expert deposition transcripts or the Plaintiffs' expert deposition transcripts from the *Jones* and *Fusion* cases until after the *American Spirit* Plaintiffs have taken the defendants' expert depositions.

Please let us know as soon as possible whether you agree, but no later than 4:00 p.m. Eastern.

Best,  
David

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**From:** Mulqueen, Matt <[mmulqueen@bakerdonelson.com](mailto:mmulqueen@bakerdonelson.com)>  
**Sent:** Monday, October 3, 2022 9:41 AM  
**To:** David Seidel <[dseidel@saverilawfirm.com](mailto:dseidel@saverilawfirm.com)>; Riccio, Nicole <[NRiccio@bakerdonelson.com](mailto:NRiccio@bakerdonelson.com)>  
**Cc:** Joseph Saveri <[jsaveri@saverilawfirm.com](mailto:jsaveri@saverilawfirm.com)>; Eric L. Cramer <[ecramer@bm.net](mailto:ecramer@bm.net)>  
**Subject:** RE: Varsity // ECF 357

David,

Defendants are still working on this with our clients and it likely going to be later today before we can get you a formal response on any proposal. To help expedite that process, see my comments below and let me know if you have replies or would like to discuss.

Matt

**Matthew S. Mulqueen**

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**From:** David Seidel <[dseidel@saverilawfirm.com](mailto:dseidel@saverilawfirm.com)>  
**Sent:** Friday, September 30, 2022 5:22 PM  
**To:** Mulqueen, Matt <[mmulqueen@bakerdonelson.com](mailto:mmulqueen@bakerdonelson.com)>; Riccio, Nicole <[NRiccio@bakerdonelson.com](mailto:NRiccio@bakerdonelson.com)>  
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**Subject:** Varsity // ECF 357

Matt,

As we discussed today, the Jones and Fusion plaintiffs will not oppose your motion to modify the discovery orders, ECF 357, so long as it only precludes the sharing of expert reports with American Spirit until American Spirit receives Defendants' expert reports in that case. We also want to make sure that the expert deposition transcripts can be shared with the other cases once each case has concluded their own expert depositions. Please let us know if you agree with this understanding, stated more precisely below:

1. The *Jones* and *Fusion* plaintiffs will not share expert reports with the *American Spirit* plaintiffs until the *American Spirit* plaintiffs have received Defendants' expert reports. *Also, Jones and Fusion plaintiffs will not share expert reports with the American Spirit plaintiffs' experts (I think this is implied in your proposal, but we want to avoid any ambiguity).*
2. The *Jones* and *Fusion* plaintiffs may not ask any questions during the depositions of the defendants' experts in the *American Spirit* case, and the *American Spirit* plaintiffs may not ask any questions during the depositions of the defendants' experts in the *Jones* and *Fusion* cases. *We would also want any agreement to prohibit American Spirit plaintiffs from attending the depositions of Plaintiffs' and Defendants' experts in Jones and Fusion, and also to prohibit attendance by Fusion Elite and Jones plaintiffs at the depositions of Plaintiffs' and Defendants' experts in American Spirit. If each of the respective FE/Jones and AS plaintiff groups will ultimately have access to the transcripts, and are otherwise not allowed to question, then attendance at the depositions should not be necessary.*
3. The *Jones* and *Fusion* plaintiffs will not disclose the defendants' expert deposition transcripts from the *Jones* and *Fusion* cases until after the *American Spirit* Plaintiffs have taken the defendants' expert depositions. *We would want this to apply to the transcripts of Plaintiffs' experts in FE/Jones as well.*

We cannot agree to any limitation on American Spirit's ability to share expert reports and transcripts with Fusion and Jones plaintiffs since by the time the American Spirit plaintiffs receive Defendants' reports and take Defendants' expert depositions, the Fusion and Jones plaintiffs will have already received the reports and taken the depositions. *We are likely fine with this subject to the above points.*

Please let us know if this is your understanding of your requested relief by 12:00 p.m. Eastern time on Monday.

Thank you,  
David

**David Seidel**  
Associate



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